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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,565	10/24/2003	Drew Doran	Doran 03-1025	9078

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FRANK D. LACHENMAIER
116 NORTH MAIN STREET
P. O. BOX 1047
KOKOMO, IN 46903-1047

EXAMINER

ABBOTT, YVONNE RENEE

ART UNIT PAPER NUMBER

3644

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/692,565

Applicant(s)

DORAN, DREW

Examiner

Yvonne R. Abbott

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3 and 4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3,4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 1/10/05 have been fully considered but they are not persuasive. Applicant argues that the cited prior art references do not contain any suggestion that they be combined. However, both Helwig and Legasse teach a pressure activated sound generating device stored within a pad. Therefore to provide the device of Legasse in the Helwig pad would have been obvious to one of ordinary skill in the art to provide other means (than a heartbeat sound) to soothe an animal (e.g. the owner's voice, music, etc). Additionally, Applicant argues that the prior art references are from different technical fields, but again both teach a pressure activated sound generating device stored within a pad. With respect to Applicant's argument regarding the intended use of the device (especially as it pertains to the application of the Legasse reference), it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). Furthermore, it should be noted that whether the device is used to greet guests or to soothe a pet is considered functional language (i.e. whose to say that the recorded greeting of Legasse would not comfort or soothe the pet, especially if it's the voice of the pet's owner). For the foregoing reasons, the previous rejections are maintained.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication US 2002/01 171 15 A!, issued to Helwig, in view of U.S. Patent 6,549,502, issued to Lagasse. The publication issued to Helwig teaches animal soothing system comprising a pet pad of soft material (interpreted by the Examiner as being structure 12., also note page 2, right column, lines 1-3) disposed within a removable cover (13)., a heavy (with respect to the filler material and cover) plastic pocket (16*, note page 2, right column, paragraph (0025) the pocket having an overlapping slit opening (19), being capable of positioning inside the bottom surface of the pad (interpreted by the Examiner as being structure 12., also note page 2, right column, lines 1-3). The reference however fails to depict: a record and playback unit inserted through the overlapping slit in the pocket comprising a voice recorder, a message player that has automatic shut-off and rewind capability after a message has been played, a pressure sensing switch for activating the message player each time a pet lies on the pet pad, a recording switch member to record new messages, and is battery powered.

Lagasse teaches the use of a floor mat comprising (as noted in the abstract of the reference) a record and playback unit inserted through the overlapping slit in the pocket comprising a voice recorder, a message player that has automatic shut-off and rewind capability after a message has been played, a pressure sensing switch for activating the message player each time a pet lies on the pet pad, a recording switch member to record new messages, and is battery powered (via structure 25). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the animal soothing system of Helwig, by incorporating a record and playback unit inserted through the overlapping slit in the pocket comprising a voice recorder, a message player that has automatic shut-off and p rewind capability after a message has been played, a pressure sensing switch for activating the message player each time a pet lies on the pet pad, a recording switch member to record new messages, and is battery powered (via structure 25), so as to provide for an animal or pet a soothing message, or to record the sounds of a pet.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

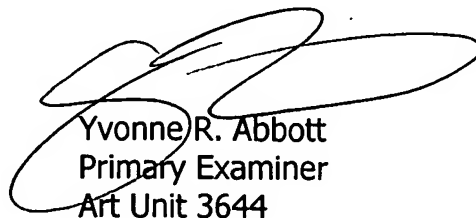
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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne R. Abbott whose telephone number is (571) 272-6896. The examiner can normally be reached on Mon-Thurs 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on (571) 272-7045. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yvonne R. Abbott
Primary Examiner
Art Unit 3644

3/31/05